



SIDLEY AUSTIN LLP
1501 K STREET, N W
WASHINGTON, D C 20005
(202) 736 8000
(202) 736 8711 FAX

phommersbaugh@sidley.com
(202) 736 8538

BEIJING
BRUSSELS
CHICAGO
DALLAS
FRANKFURT
GENEVA
HONG KONG
LONDON
LOS ANGELES

NEW YORK
PALO ALTO
SAN FRANCISCO
SHANGHAI
SINGAPORE
SYDNEY
TOKYO
WASHINGTON, D C

FOUNDED 1866

May 20, 2011



229558

By Hand Delivery

Cynthia T. Brown
Section Chief
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings
MAY 20 2011
Part of
Public Record

Re: Docket No. NOR 42125, E.I. du Pont de Nemours and Company v. Norfolk
Southern Railway Company

Dear Ms. Brown:

Enclosed for filing in the above-captioned matter, please find Norfolk Southern Railway Company's Motion to Withdraw its First Motion to Compel with regards to the above-referenced matter.

If you have any questions, please contact me.

Very truly yours,

Paul A. Hemmersbaugh

Encl.

cc: Jonathon P. Binet
Rachel D. Campbell
Jeffrey O. Moreno

229558

BEFORE THE
SURFACE TRANSPORTATION BOARD



E.I. DUPONT DE NEMOURS AND COMPANY

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Defendant.

Docket No. NOR 42125

ENTERED
Office of Proceedings

MAY 20 2011

Part of
Public Record

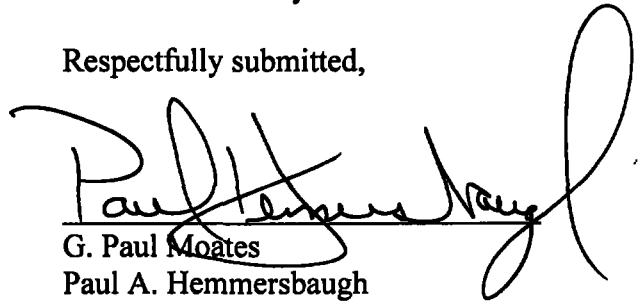
**MOTION TO WITHDRAW FIRST MOTION TO COMPEL OF NORFOLK
SOUTHERN RAILWAY COMPANY**

Defendant Norfolk Southern Railway Company ("NS") hereby moves to withdraw its First Motion to Compel without prejudice. NS's First Motion to Compel, filed on April 20, 2011, seeks to compel responses from Petitioner, E.I. du Pont de Nemours and Company ("DuPont") to NS's Request for Production ("RFP") No. 20 requesting documents related to, *inter alia*, claims DuPont made in a federal court case it brought against NS alleging DuPont had used alternative transportation for DuPont traffic, purportedly due to poor service by NS.

Following the May 6, 2011 discovery conference supervised by Board staff, the parties have reached a negotiated resolution of the discovery dispute that is the subject of NS's pending Motion to Compel. DuPont has agreed to produce 20 boxes of documents from the federal action it brought against NS, including documents demonstrating DuPont's actual use of alternative transportation for traffic that would otherwise have moved under contract with NS. Accordingly, NS hereby withdraws its First Motion to Compel. Because DuPont has not yet produced the promised documents, and in order to allow the Board to determine NS's motion

within the prescribed time limit, NS's withdrawal of its motion is made without prejudice to its right to renew its motion, or to file another motion, should it become necessary to do so.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Paul A. Hemmersbaugh". The signature is written over a horizontal line.

G. Paul Moates
Paul A. Hemmersbaugh
Matthew J. Warren
Hanna M. Chouest
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000
(202) 736-8711 (fax)

John M. Scheib
David L. Coleman
Christine I. Friedman
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Counsel to Norfolk Southern Railway Company

Dated: May 20, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2011, I caused a copy of the foregoing Motion to Withdraw NS's First Motion to Compel to be served on the following parties by first class mail, postage prepaid or more expeditious method of delivery:

Jeffrey O. Moreno
Sandra L. Brown
Jason Tutrone
Thompson Hine LLP
1920 N Street, NW, Suite 800
Washington, DC 20036

A handwritten signature in black ink, appearing to read 'Eva Mozena Brandon', is written over a horizontal line.

Eva Mozena Brandon